IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4374 of 2001

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO LTD.

Versus

HEIRS OF DECD.RATILAL MOHANLAL

Appearance:

MR SANDIP C SHAH for Petitioner No. 1

MS PAURAMI B SHETH for Respondents No. 1/1-1/2

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE H.H.MEHTA

Date of decision: 17/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard the learned counsel for the appellant and learned counsel for respondent nos.1/1 and 1/2 (original claimants). Appeal admitted. Ms Paurami B. Sheth appears for respondent nos.1/1 and 1/2 and waives service of notice in the appeal.

2. On a joint request of learned counsel, this appeal is taken up for hearing today.

3. This is an appeal under section 173 of the Motor Vehicles Act, 1988 at the instance of the Insurance Company, challenging the judgement and award passed by the Motor Accident Claims Tribunal (Auxi II), Surendranagar, under section 168 of the said Act.

4. Learned counsel for the appellant has pressed this appeal only on the ground of interest awarded by the Tribunal on the amount of compensation determined as payable.

5. The Tribunal in fact has awarded interest at the rate of 12% per annum on the compensation determined by it, from the date of the claim petition till realization. It is in the context of this rate of interest that we are required to examine the present appeal.

6. The question of interest is no doubt within the discretionary jurisdiction of the Tribunal, but in the light of various decisions of this court, the rate of interest has to be tempered with the economic reality prevailing in the country and the rates of interest prevailing generally in the market from time to time.

7. After considering various relevant and pertinent factors, this court has in a number of decisions adopted a slab system of awarding interest, particularly where the interest awarded by the Tribunal has not been so exorbitant so as to shock the conscience of the court. Thus, on the facts and circumstances of the case, and in consonance with the earlier decisions of this court as also this Bench, we hold and direct that the original claimant shall be entitled to interest on the amount of compensation awarded by the Tribunal under the impugned award at the rate of 12% per annum from the date of the claim petition upto 31st December 1999, and at the rate

of 9% thereafter till realization.

8. The impugned judgement and award are modified only to the aforesaid extent and rest of the award stands confirmed.

9. This appeal is, therefore, partly allowed to the aforesaid extent with no order as to costs. Decree accordingly. Direct service permitted.

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